

Interpretation of “Cigarettes, Tobacco Products, and Nicotine Products” for Purposes of Eagle County’s Tobacco Tax

Eagle County’s tobacco tax, effective as of January 1, 2020, applies to the sales of cigarettes, tobacco products, and nicotine products as these are defined in C.R.S. § 18-13-121(5)(a). This section defines these products as:

- (I) A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or
- (II) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe.

The tax does not apply, however, to a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.

The definition in subsection (I) is straightforward and does not require clarification. However, the definition in (II) appears extremely broad. Eagle County will interpret C.R.S. § 18-13-121(5)(a)(II) for purposes of its tobacco tax as follows:

1. Rolling papers are subject to the tobacco tax, if the rolling papers contain tobacco or nicotine or are sold in a package containing tobacco or nicotine.
2. Pipes or other similar devices are subject to the tobacco tax if the pipe is sold in a package containing tobacco.
3. Any “vape” device components are subject to the tobacco tax, excluding vape device battery components, but including nicotine or tobacco-containing starter kits, tanks, pods, and juices.